

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 237 of 1990

AND

CRIMINAL REVISION APPLICATION NO 240 of 1990

cr

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No

NAVINCHANDRA TRAMBAKLAL VYAS

Versus

STATE OF GUJARAT

Appearance:

Criminal Revision Application Nos.237 and 240 of
1990

MR VS MEHTA for Petitioner

Mr. A.P. Munshi for Mr. A.J.Patel for the
complainant.

Mr. S.R.Divetia, learned Addl. P.P. for the State of
Gujarat.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 26/08/96

COMMON ORAL JUDGMENT ;

1. These two Revision Applications have been filed by Navinchandra T. Vyas and Devsibhai K. Vaghela separately in respect of the order passed by the trial court with regard to the muddamal in a case in which they have been acquitted of the offences under Sections 420 and 114 of the I.P.C.

2. The muddamal in Criminal Revision Application No.237/90 filed by Navinchandra T.Vyas is a sum of Rs.2,63,300/- i.e. bundle of currency notes, which were recovered from him by the Police and in Criminal Revision Application No.240/90 filed by Devsibhai the muddamal is a sum of Rs.1,00,000/- i.e. bundle of currency notes, which were recovered from him by the Police during the course of investigation of the offences under Sections 420 and 114 of I.P.C. against them lodged by the complainant Dahyabhai.

3. Mr. V.S. Mehta appearing for the revision petitioners has argued that his clients had received the respective sums, as recovered from them, in a transaction with the complainant. Whereas they have been acquitted of the offences under Sections 420 and 114 I.P.C., they are entitled to the return of these currency notes because this money lawfully belong to them and merely because the bundles of currency notes bear the signatures of the complainant, there was no question of return of these amounts to the complainant by the trial court when they had been acquitted. Mr. Divetia, learned Addl. P.P. appearing on behalf of the State of Gujarat and Mr. A.P. Munshi appearing for Mr. A.J. Patel on behalf of the complainant have opposed these Revision petitions. It was given out by Mr. A.P. Munshi that the petitioners had also approached this Court by way of filing Criminal Revision Application No.1525/82 after the order dated 14-10-82 passed by the Metropolitan Magistrate and in that matter also their grievance with regard to the order dated 14-10-82, so as to give the amount to the complainant, was not found to be legitimate and the Criminal Revision Application No.1525/82 was dismissed on 29-11-82 and this order was also confirmed on 1-12-82. It has also been submitted by Mr. Divetia and Mr. Munshi that the revision petitioners had themselves agreed before the trial court that in case the muddamal amount is returned to the complainant Dahyabhai they have no objection. It has also been submitted that merely because the acquittal has been granted to them by giving benefit of doubt, the revision petitioners can not be held to be lawful owners of these currency notes.

4. Before dealing with the submissions made on behalf of the revision petitioners, the complainant and the State of Gujarat, it may be pointed out that the State of Gujarat had preferred Criminal Appeal No.187 of 1990 against the order of acquittal of these two revision petitioners, as passed by the Metropolitan Magistrate, Court No.9, Ahmedabad in Criminal Case No.176/83 on 19-12-89. This Appeal against acquittal has been dismissed by this Court today only and in that order deciding the Appeal the facts have been set out in detail. This court while deciding the Criminal Appeal filed by the State has not found any basis to interfere with the order of acquittal.

5. I have perused the record. The record and the impugned order dated 19-12-89, whereby the muddamal has been directed to be returned to the complainant, show that while the revision petitioners i.e. Navinchandra and Devsibhai were on remand, Chandrikaben i.e. wife of Navinchandra, who was also one of the accused, had filed an application in the trial court that the currency notes may not be given to the complainant. This application had been rejected by the Court and, thereafter, while Navinchandra and Devsibhai i.e. present revision petitioners were on remand upto 19-10-82, they gave in writing on 14-10-82 before the Metropolitan Magistrate on the application moved by the complainant that they had no objection if the money recovered from them is given to the complainant and the muddamal i.e. bundles of currency notes worth Rs.3,63,300/- were given to the complainant Dahyabhai under court's order dated 14-10-82 on the basis of the no objection given by all the three accused persons, including the present two revision petitioners. It is given out by learned counsel for the complainant that this amount was given to him on furnishing a Bond for a sum of Rs.4,00,000/- and this muddamal had also been tendered back before the Court in the year 1987 during the course of the trial when it was required by the Court.

6. Looking to the totality of the facts coupled with the fact on record that revision petitioners had themselves given out in writing before the Court that they had no objection if the said muddamal i.e. bundles of currency notes worth Rs.3,63,300/- is given to the complainant and the fact that they have been acquitted by giving benefit of doubt and the fact that the Appeals, which had been preferred by these two revision petitioners before the Sessions Court against the Metropolitan Magistrate Court's order, have also been

dismissed and the fact that the bundle of the currency notes do bear the signatures of the complainant, I do not find any reason to interfere with the order passed by the trial court with regard to the return of the muddamal to the complainant.

7. The net result is that both the Revision Petitions fail and the same are hereby dismissed. Rule is hereby discharged in both the Revision Petitions. The trial court may proceed in accordance with the terms of the order already passed by it with regard to the return of the muddamal to the complainant. Copy of this order may be sent to the trial court.